UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,493	10/30/2003	Mark M. Kotik	PREDYN-44164	3163

26252 7590 12/29/2005

KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

EXAMINER	
HOGE, GARY CHAPMAN	
ART UNIT	**PAPER NUMBER**
3611	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/699,493	KOTIK ET AL.	
	Examiner	Art Unit	
	Gary C. Hoge	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) *30-39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 30-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 4, 2005.

Claim Objections

2. Claim 8 is objected to because of the following informalities: on line 1, it appears that "primary" should be inserted after "said". Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-7, 9-13, 20-22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herreros Rodriguez et al. (2001/0015553) in view of Penuela et al. (2004/0113421).

See Fig. 3. Herreros Rodriguez discloses an identification band comprising an elongated flexible strap **10** having a head end and a tail end, and adapted for wrap-around mounting onto a specific wearer or object with the head and tail ends interconnected to form the strap into a closed loop configuration; a primary identification zone **4D** on the strap and adapted to receive information associated with the specific wearer or object; and a plurality of detachable labels (**4**, **4A**, **4B**, **4E**) on the strap, each of the labels being adapted to receive information associated with the specific wearer. However, Herreros Rodriguez does not include a Radio Frequency Identification (RFID) circuit. Penuela teaches that it was known in the art to use a Radio Frequency Identification (RFID) circuit with an identification band. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an RFID circuit in the strap disclosed by Herreros Rodriguez, as taught by Penuela, in order to afford a higher degree of identification capability.

Regarding claim 7, see para. 0050 of Penuela.

Regarding claim 10, any part of the strap can be considered the "tail end," and the rest of the strap can be considered a "tail end extension."

Regarding claim 13, see Fig. 1. The fastener member is obscured in Fig. 2.

Regarding claim 24, any part of the strap can be considered the "tail end," and the rest of the strap can be considered a "tail end extension."

6. Claims 1-6, 8-12, 14-16, 18-25, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baucom (3,698,383) in view of Mosher et al. (2003/0173408).

Baucom discloses an identification band comprising an elongated flexible strap **12** having a head end and a tail end, and adapted for wrap-around mounting onto a specific wearer or object

with the head and tail ends interconnected to form the strap into a closed loop configuration; a primary identification zone (featuring the name "Jane Smith") on the strap and adapted to receive information associated with the specific wearer or object; and a plurality of detachable labels **20** on the strap, each of the labels being adapted to receive information associated with the specific wearer. However, the machine-readable information is in the from of magnetic ink, rather than a Radio Frequency Identification (RFID) circuit. Mosher teaches that it was known in the art to provide an identification band having information that is both human-readable and machine-readable (including an RFID circuit). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the labels disclosed by Baucom with both human-readable and machine-readable information, including an RFID circuit, in order to be able quickly and easily to associate the wearer of the band with information about the wearer that is stored in a computer database.

Regarding claim 5, see column 6, lines 33-36.

Regarding claim 10, any part of the strap can be considered the "tail end," and the rest of the strap can be considered a "tail end extension."

Regarding claims 14-16, see column 3, lines 41-59, and column 4, lines 21-44.

Regarding claim 24, any part of the strap can be considered the "tail end," and the rest of the strap can be considered a "tail end extension."

Regarding claim 25, see column 3, lines 41-59, and column 4, lines 21-44, of Baucom.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baucom (3,698,383) in view of Mosher et al. (2003/0173408) as applied to claim 1, above, and further in view of Penuela et al. (2004/0113421).

Baucom discloses the invention substantially as claimed, as set forth above. However, the RFID circuits disclosed by Mosher are located on the primary identification zone and only one of the detachable labels. Penuela et al. teaches that it was known to apply RFID circuits to each detachable label in such a kit (see para. 0050). It would have been obvious to one having ordinary skill in the art at the time the invention was made to supply RFID circuits to each of the labels disclosed by Baucom, as modified, as taught by Penuela, in order to afford a higher degree of identification capability.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baucom (3,698,383) in view of Mosher et al. (2003/0173408) as applied to claim 1, above, and further in view of Peterson et al. (5,448,846).

Baucom discloses the invention substantially as claimed, as set forth above. However, the fastener is of a different type than is claimed. Peterson teaches that it was known in the art to use a fastener of the type claimed to secure together the ends of a wrist band. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fastener of the type taught by Peterson in the wrist band disclosed by Baucom as an obvious matter of choice in design, based upon such factors as cost and availability of parts to the designer.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baucom (3,698,383) in view of Mosher et al. (2003/0173408) as applied to claim 16, above, and further in view of Huddleston et al. (5,653,472).

Baucom discloses the invention substantially as claimed, as set forth above. However, Baucom does not disclose a release layer overlying the base ply. Huddleston teaches that it was

known in the art to apply a release layer over the base ply of a label set, in order to facilitate removal of the labels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the labels disclosed by Baucom with a release layer over the base ply, as taught by Huddleston et al., in order to facilitate removal of the labels.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baucom (3,698,383) in view of Mosher et al. (2003/0173408), as applied to claim 25, above, and further in view of Huddleston et al. (5,653,472).

Baucom discloses the invention substantially as claimed, as set forth above. However, Baucom does not disclose a release layer overlying the base ply. Huddleston teaches that it was known in the art to apply a release layer over the base ply of a label set, in order to facilitate removal of the labels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the labels disclosed by Baucom with a release layer over the base ply, as taught by Huddleston et al., in order to facilitate removal of the labels.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baucom (3,698,383) in view of Mosher et al. (2003/0173408), as applied to claim 20, above, and further in view of Peterson et al. (5,448,846).

Baucom discloses the invention substantially as claimed, as set forth above. However, the fastener is of a different type than is claimed. Peterson teaches that it was known in the art to use a fastener of the type claimed to secure together the ends of a wrist band. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fastener of the type taught by Peterson in the wrist band disclosed by Baucom as an obvious

matter of choice in design, based upon such factors as cost and availability of parts to the designer.

Response to Arguments

12. Applicant's arguments filed October 6, 2005 have been fully considered but they are not persuasive.

Applicant states that "an identification band and associated detachable labels where both the band and the labels include radio frequency identification circuits is not shown in the prior art." Further, applicant states, "While Penuela et al. teaches the use of a radio frequency identification circuit with an identification band, it does not also teach the use of a radio frequency identification circuit with related detachable labels." On the contrary, Penuela teaches precisely that. Penuela states, "An electromagnetic chip for carrying information 96, in the form of a computer chip or RFID inlet 96 may be imbedded in the wristband 24, 54, labels 36, 66 and other elements 40, 70 to afford a higher degree of identification capability."

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

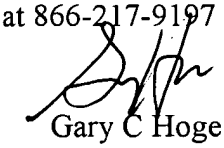
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch